

ORDER E-FILED: 02/06/2007

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SANTANA ROW HOTEL PARTNERS, L.P.,) CASE NO.: C 05-00198 JW

Plaintiff,

v.

ZURICH AMERICAN INSURANCE
COMPANY, GALLAGHER-PIPINO, INC.,
and ARTHUR J. GALLAGHER & CO.

Defendants.

**STIPULATION AND ORDER REGARDING
BRIEFING AND HEARING DATE FOR
ZURICH DISCOVERY MOTION RE
JANUARY 30, 2007 DISCLOSURES FROM
SRHP'S EXPERT, PAUL HAMILTON**

ZURICH AMERICAN INSURANCE
COMPANY,

Cross-Complainant,

v.

GALLAGHER-PIPINO, INC. and ARTHUR
J. GALLAGHER & CO.,

Cross-Defendants.

Second Amended Complaint Filed: June 20, 2006

WHEREAS, as reflected in the parties' agreed and Court-approved Stipulation and Order Regarding the Change of Certain Dates in the Scheduling Order (Doc. 118), the agreed upon deadline for the close of discovery in this case is February 23, 2007;

1 WHEREAS, on January 30, 2007, the day before the then-scheduled deposition of plaintiff
2 SRHP's bad faith expert, Paul Hamilton, SRHP disclosed an additional expert report that it entitled
3 as a "supplemental" report and certain additional documents from Mr. Hamilton;

4 WHEREAS, defendant and cross-claimant Zurich contends it is necessary to resolve the
5 propriety of Mr. Hamilton's January 30, 2007 disclosures before a deposition of Mr. Hamilton is
6 conducted and, because of the impending discovery cutoff, it would be impossible to have the
7 dispute heard under normal motion notice requirements and decided before expiration of the
8 discovery cutoff in this case;

9 WHEREAS, the parties have agreed to stipulate to shorten time for the briefing and hearing
10 of a motion by Zurich to exclude the January 30, 2007 Hamilton disclosures;

11 WHEREFORE, the parties have agreed to the following briefing schedule on Zurich's motion
12 to exclude the January 30, 2007 Hamilton disclosures:

- 13 1. Zurich's motion shall be heard before Magistrate Judge Lloyd on Tuesday, February
14 20, 2007 at 10:00 a.m., or as soon thereafter as the court can set the matter for
15 hearing.
- 16 2. Zurich's motion is to be filed by February 5, 2007, with SRHP accepting electronic
17 service on that date as equivalent to personal service of the pleadings;
- 18 3. Any opposition pleadings are to be filed and served electronically by SRHP by 1 p.m.
19 on February 12, 2007;
- 20 4. Reply pleadings (if any) are to be filed by Zurich on or before February 15, 2007; and
- 21 5. Finally, SRHP and Zurich agree that, after Zurich's motion has been decided by the
22 Court, SRHP will make Mr. Hamilton available for deposition, at a mutually
23 agreeable date and time, even if the deposition must proceed after the February 23,
24 2007 discovery cutoff. It is agreed that this agreement by SRHP for the production of
25 Mr. Hamilton for deposition shall not be cited by the parties as grounds to change or
26 continue any other Court-ordered dates.

1 Dated: February 2, 2007

RUBY & SCHOFIELD

2 /s/ Steven A. Ellenberg

3 By: Steven A. Ellenberg

4 Attorneys for Plaintiff, Santana Row
5 Hotel Partners, L.P.

6 Dated: February 2, 2007

JONES TURNER, LLP

7 /s/ Ron H. Burnovski

8 By: Ron H. Burnovski

9 Attorneys for Defendant and Cross-
10 Claimant, Zurich American Insurance
11 Company

12 PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

13
14 Dated: February 6, 2007

15 
16 Magistrate Judge Lloyd
17 United States District Court
18
19
20
21
22
23
24
25
26
27
28